

BILL ANALYSIS

Senate Research Center
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S.B. 326
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In Texas, some low-level, first-time offenses can be removed from an individual's record through an order of expunction. This process often costs the individual a fee that can vary from county to county. Although applications for indigence do exist, judges have no discretion in waiving fees for the purpose of justice for those whose punishment, in the form of this permanent record, is disproportionately high compared to their crime, or for those who earn just enough money to surpass the indigence threshold.

S.B. 326 amends Article 102.006, Code of Criminal Procedure, to allow a judge to order the fees, wholly or partially, to be returned to the individual pursuing an order of expunction.

Orders of expunction completely erase a given charge from an individual's criminal history. Courts may grant orders of expunction for a variety of situations, namely an arrest for a crime that was never charged, a charge that ultimately ended in dismissal, and a variety of low-level, qualifying offenses. The most populous counties across the state charge fees ranging from \$214 to \$387 for an order of expunction. The number of filings in fiscal year 2016 for one of these counties, Tarrant County, was 1,010, with only 85 of these filings qualifying as indigent. For those who earn just enough to surpass the indigence threshold, this fee, as well as the associated attorney and court fees, can still be burdensome. Judges should be allowed to determine when a situation demands relief from these fees. S.B. 326 provides our judges with this discretion.

As proposed, S.B. 326 amends current law relating to the authority of a court to return certain fees to a person whose criminal record has been expunged.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 102.006, Code of Criminal Procedure, by adding Subsection (c), to authorize a court granting a petition for expunction of a criminal record to order the return of a fee or any portion of a fee relating to the petition to the petitioner.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2017.